

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:) Case No. 01-1139 (JKF)
) Chapter 11
W.R. GRACE, et al.,)
) Bankruptcy Courtroom No. 2
) 824 Market Street
Debtors.) Wilmington, Delaware 19801
)
)
) September 23, 2002
) 10:12 A.M.

TRANSCRIPT OF OMNIBUS HEARING
BEFORE HONORABLE JUDITH K. FITZGERALD
UNITED STATES BANKRUPTCY JUDGE

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*Continued to October 28, 2002, 10 A.M.

**Continued to November 25, 2002, 10 A.M.

THE COURT: This is the matter of W.R. Grace, Bankruptcy Number 01-1139. There is an agenda set for this afternoon. Will anyone who speaks when you speak please enter your appearances. Good morning.

MS. BAER: Good morning, Your Honor. Janet Baer on behalf of W.R. Grace.

Your Honor, I believe the first 45 items on the agenda have to do with fee applications.

THE COURT: Yes.

MS. BAER: I have spoken with Mr. Smith. He is not on the phone but will be -- is available on the telephone if you'd like to speak with him or have him participate. He did not feel it was necessary.

What he would like to do is have a little time on these first three interim periods. He is issuing reports now.

The reports are being responded to by counsel. The thought was that a hearing be set for later, perhaps near or if not at the November omnibus hearing. Your Honor, in that respect, obviously all counsel are concerned they'd like to get the remaining 20 percent of fees not paid by the end of the year. We've been waiting for almost a year and a half for some of the fees. So, I would say the first opportunity we could get to

is hazardous. And so it is true that we have objected to some of the requests on the grounds of relevance and overbreadth because it hasn't been limited to the finished product.

Everyone agrees, Your Honor, at least in the Barbanti preliminary injunction hearing, their experts and our experts, this material, the finished product, contains by weight one one-hundred to one one-thousandth of one percent of asbestos, if it's in there at all. And so to dig out documents and produce documents relating to what happened when you mine the material clearly is beyond the scope of what this Court is trying to determine what does science tell us about the Z.A.I. in the attic.

And, therefore, we have not attempted to give environmental documents, Libby disease documents, mining documents, et cetera.

We do agree and have agreed with Mr. Westbrook in his comment at the August 26th hearing, he does need testing related to Z.A.I. We've agreed to give him testing related to Z.A.I. and there are a lot of documents related to that. And he's going to get them.

They've been in our repository now for two weeks, Mr. Turkewitz plus three individuals, although Mr. Turkewitz left after a couple of days and the individuals are there. We pointed them to 61 boxes of what traditionally and historically has been called notice documents in the non-Z.A.I. litigation.